

FORM TO BE USED BY A PRISONER IN FILING A
CIVIL RIGHTS COMPLAINT

#12

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEYBrian Simmons AKA Char. A. Johnson
(Enter above the full name of the plaintiff in this action)

COMPLAINT

v. : Civil Action No. _____

State of New Jersey, Department
of Corrections, New Jersey State
Prison, Trenton, New Jersey 08625
Medical Department, UMDN. J.

(To be supplied by the Clerk of the Court)

(Enter above the full name of the defendant or defendants in this action)

RECEIVED

JUL 14 2009

AT 8:30 AM
WILLIAM T. WALSH, CLERKINSTRUCTIONS – READ CAREFULLY

1. This complaint must be legibly handwritten or typewritten, signed by the plaintiff and subscribed to under penalty of perjury as being true and correct. All questions must be answered concisely in the proper space on the form. Where more space is needed to answer any question, attach a separate sheet.
2. In accordance with Rule 8 of the Federal Rules of Civil Procedure, the complaint should contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, (2) a short plain statement of the claim showing that you are entitled to relief, and (3) a demand for judgment for the relief which you seek.
3. You must provide the full name of each defendant or defendants and where they can be found.
4. You must send the original and one copy of the complaint to the Clerk of the District Court. You must also send one additional copy of the complaint for each defendant to the Clerk. Do not send the complaint directly to the defendants.
5. Upon receipt of a fee of \$150.00, your complaint will be filed. You will be responsible for service of a separate summons and copy of the complaint on each defendant. See Rule 4, Federal Rule of Civil Procedure.

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6. If you cannot prepay the \$150.00 filing fee, you may request permission to proceed in forma pauperis in accordance with the procedures set forth below. (If there is more than one plaintiff, each plaintiff must separately request permission to proceed in forma pauperis.)

The Prison Litigation Reform Act of 1996 ("PLRA"), effective April 26, 1996, has made significant changes to the in forma pauperis statute, 28 U.S.C. § 1915. The statute no longer provides for waiver of court filing fees for prisoners who are granted leave to proceed in forma pauperis. A prisoner who is granted leave to proceed in forma pauperis is not required to pay the filing fees in advance, but the prisoner is obligated to pay the entire filing fee in installment payments regardless of the outcome of the proceeding. This obligation to pay the filing fee continues even if the prisoner is transferred to another prison. Therefore, before submitting this application to the Clerk of the Court, a prisoner should consider carefully whether he or she wishes to go forward with the action.

The PLRA obligates prisoners who are granted in forma pauperis status to pay the entire filing fee in the following manner, regardless of the outcome of the litigation. 28 U.S.C. § 1915(b)(1) and (2). The agency having custody over the prisoner shall deduct from the prisoner's institutional account and forward to the Clerk of the Court (1) an initial partial filing fee equal to 20% of the greater of the average monthly deposits to the prisoner's account or the average monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the complaint, and (2) payments equal to 20% of the preceding month's income credited to the prisoner's institutional account each month the amount in the account exceeds \$10.00, until the \$150.00 filing fee is paid. 28 U.S.C. § 1915(b)(1) and (2). However, a prisoner who has no assets and no means by which to pay the initial partial filing fee will not be prohibited from bringing a civil action. 28 U.S.C. § 1915(b)(4).

Each prisoner plaintiff who desires to proceed in forma pauperis must submit the following to the Clerk of the Court:

- a. a completed, signed, and dated application to proceed in forma pauperis (attached hereto); and
- b. a certified copy of your prison account statement for the 6-month period immediately preceding submission of this application, listing the account balance and all deposits into the account. A prison account statement must be obtained from the appropriate official of each prison at which you are or were confined during the preceding 6 months.

7. If your application to proceed in forma pauperis does not conform to these instructions, you will be notified by letter of the nature of the deficiencies. If these deficiencies are not cured within 120 days of the date of the letter, the complaint will be deemed withdrawn, the Clerk's file will be closed, and no fees will be assessed against you.

8. If you are given permission to proceed in forma pauperis, the Clerk will prepare and issue a copy of the summons for each defendant. The copies of summonses and the copies of the complaint which you have submitted will be forwarded by the Clerk to the United States

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Marshal, who is responsible for service. The Marshal has USM-285 forms you must complete so that the Marshal can locate and serve each defendant. If the forms are sent to you, you must complete them in full and return the forms to the Marshal.

QUESTIONS TO BE ANSWERED

1. Jurisdiction is asserted pursuant to (CHECK ONE)

42 U.S.C. § 1983 (applies to state prisoners)

Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics,
403 U.S. 388 (1971) and 28 U.S.C. § 1331 (applies to federal prisoners)

If you want to assert jurisdiction under different or additional statutes, list these below:

2. Previously Dismissed Federal Civil Actions or Appeals

If you are proceeding in forma pauperis, list each civil action or appeal you have brought in a federal court while you were incarcerated or detained in any facility, that was dismissed as frivolous or malicious, or for failure to state a claim upon which relief may be granted. Please note that a prisoner who has on three or more prior occasions, while detained in any facility, brought an action or appeal in a federal court that was dismissed as frivolous or malicious, or for failure to state a claim upon which relief may be granted, will be denied in forma pauperis status unless that prisoner is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

a. Parties to previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

b. Court and docket number: _____

c. Grounds for dismissal: () frivolous () malicious () failure to state a claim upon which relief may be granted

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d. Approximate date of filing lawsuit: _____

e. Approximate date of disposition: _____

If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on separate sheets.

3. Place of Present Confinement? _____

4. Parties

(In item (a) below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

a. Name of plaintiff: Brian Simmons aka Omar J. Johnson

Address: N.J.S.P P.O. Box 861 Trenton, New Jersey 08625

Inmate #: Brian Simmons # 546689 / 245321C

b. First defendant – name: State of New Jersey, Department of Corrections

Official position: All major authorities in the position of running an prison

Place of employment: D.O.C. New Jersey State Prison P.O.Box 861 Trenton, New Jersey 08625

How is this person involved in the case?

(i.e., what are you alleging that this person did or did not do that violated your constitutional rights?)

No one likely my civil rights was violated by 14th Amendment Cerebral and Unusual punishment also the 8th Amendment, Being attacked by officers and injured, stripped naked in front of everybody as a violation of my religion AS A Muslim.

c. Second defendant -- name: _____

Official position: _____

Place of employment: _____

How is this person involved in the case?

(i.e., what are you alleging that this person did or did not do that violated your constitutional rights?)

d. If there are more than two defendants, attach a separate sheet. For each defendant specify: (1) name, (2) official position, (3) place of employment, and (4) involvement of the defendant.

5. I previously have sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in the Statement of Claims on page 6.

Yes _____ No _____

If your answer is "Yes," briefly describe the steps taken, including how relief was sought, from whom you sought relief, and the results.

Request forms to the administration in the Correctional facility and no
medical treatment was given but X-rays just pain medication.

If your answer is "No," briefly explain why administrative remedies were not exhausted.

6. Statement of Claims

(State here as briefly as possible the facts of your case. Describe how each defendant violated your rights, giving dates and places. If you do not specify how each defendant violated your rights and the date(s) and place of the violations, your complaint may be dismissed. Include also the names of other persons who are involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach a separate sheet if necessary.)

In the following violations of the 8th and 14th Amendments, I was brutally beaten down by several officers. Who claimed I attempted suicide inside my cell when I was outside of my cell trying to get the attention of a supervisor to resolve a matter that could have been in fault and hazardous to my breathing. An officer ask me what was the problem and I explain next a supervisor said to me what is the problem. I told them that I was smelling toxicants coming from my vent and the supervisor didn't really care about my problems. Now me being an (MCU) Management Control Unit inmate on special needs was suppose to have an Abstention team and Internal Affairs when ever I'm being restrained. The gate was opened and I was pushed and held down while hand cuffed while officers beat me down with ~~Knights~~ sticks in my head back legs and ankles. My shirt was ripped off my back, sweat pants was taken off and underwear and socks. This is the 3rd time I've been attacked by officers, first time in Essex County, Second time in Essex County by Internal Affairs, 3rd time in this facility. Due to me being violated Internal Affairs has me off Camera Watch. I have sought applications for medical treatment and was just given medication pain pills X-rays was taken which was reported that nothing was broken, but I can't even walk correctly (howay I normally do, and I am in need of close medical attention which is not being given to me at the present time.

Also being falsely accused of being AN Homosexual MADMAN which is a discrimination to me being a muslim. This Also has been reported on N.J. News which has been a serious matter in the State of New Jersey. My food has also been violated spit in numerous times. My Ramadon meals has been violated with cleaning ~~paper~~ MAIL. Have been exposed to other people giving my addresses. PRISONERS taken from me such showers, phone use all my numbers are being blocked so that I wont be able to keep in contact with family members. etc. Since this incident it has also created back spasms causing me to wake up with excruciating in the morning and night it's hard to sleep. PARANOID think that officers are going to attack me while I'm sleeping or when I'm outside of my cell on the way to yard move ments.

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7. Relief

(State briefly exactly what you want the Court to do for you. Make no legal arguments. Cite no cases or statutes.)

The State could release me by releasing me from this prison because I only have a small amount of time left and what the defendants would release me with an amount of 1.5 million dollars for my injuries and civil rights being violated in this prison facility.

8. Do you request a jury or non-jury trial? (Check only one)

Jury Trial Non-Jury Trial

I declare under penalty of perjury that the foregoing is true and correct.

Signed this _____ day of _____, 19 ____.

Signature of plaintiff¹

¹ EACH PLAINTIFF NAMED IN THE COMPLAINT MUST SIGN THE COMPLAINT HERE. ADD ADDITIONAL LINES IF THERE IS MORE THAN ONE PLAINTIFF. REMEMBER, EACH PLAINTIFF MUST SIGN THE COMPLAINT.

FORM TO BE USED BY A PRISONER
APPLYING TO PROCEED IN FORMA PAUPERIS

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Brian Simmons aka Omari Johnson

(Enter above the full name of the plaintiff in this action)

APPLICATION TO PROCEED
IN FORMA PAUPERIS

v.

Civil Action No. _____

(To be supplied by the Clerk of the Court)

State of New Jersey, Department of

Corrections, New Jersey State Person

Trenton, New Jersey 08625 Medical

Department VM DNS

(Enter above the full name of the defendant or defendants
in this action)

I, Brian Simmons aka Omari Johnson, declare that I am the (check appropriate box)

Petitioner / plaintiff / movant Other

in the above-entitled proceeding; that, in support of my request to proceed without being required to prepay fees, costs, or give security therefor, I state that because of my poverty, I am unable to prepay the costs of said proceeding or give security therefor; that I believe I am entitled to relief. The nature of my action, defense, or other proceeding or the issues I intend to present on appeal are briefly stated as follows:


